IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.8109 OF 2005**

Smt.Godavari P. Prabhu ...Petitioner

Versus

Miss.Shalini V.Prabhu & Ors. ...Respondents

Shri Anilkumar Patil for the Petitioner.
Shri G.K. Vora for Respondent Nos.1 to 3.

**CORAM : S.C. DHARMADHIKARI, J.**
**DATE : JANUARY 16, 2006.**

P.C.:

1. At the request of Shri Patil, respondent No.4 is deleted. Shri Vora appears and waives service of respondent Nos.1 to 3.

2. Rule. Heard forthwith by consent.

3. Admittedly, the petitioner filed an application for heirship certificate to be issued in her favour as according to her she is widow of one Padmanabh Prabhu. Upon contest by respondent Nos.1 to 3, the application is converted into a Suit. Once it was so converted and numbered as a Special Civil Suit, the petitioner applied for amending the same. The amendment was for incorporating pleas and reliefs apart from what was already sought. In my view, it is not demonstrated as to how upon conversion of the

application into a Special Civil Suit, the pleas and declarations based thereon cannot be incorporated and that it would change the character of the controversy involved therein or the cause of action. Ultimately, the basis of the claim is right in an immovable property. One of the object of allowing amendment applications is to avoid multiplicity of proceedings. In these circumstances, order passed by the trial Court cannot be sustained. Rule is made absolute in terms of Prayer Clause (b). The application for amendment is allowed. Amendment to be carried out within a period of two weeks. It would be open for respondent Nos.1 to 3 to file additional Written Statement within four weeks from the date of receipt of a copy of the amended plaint. All contentions of parties on merits of the controversy are expressly kept open. No order as to costs.

**(S.C.DHARMADHIKARI,J.)**